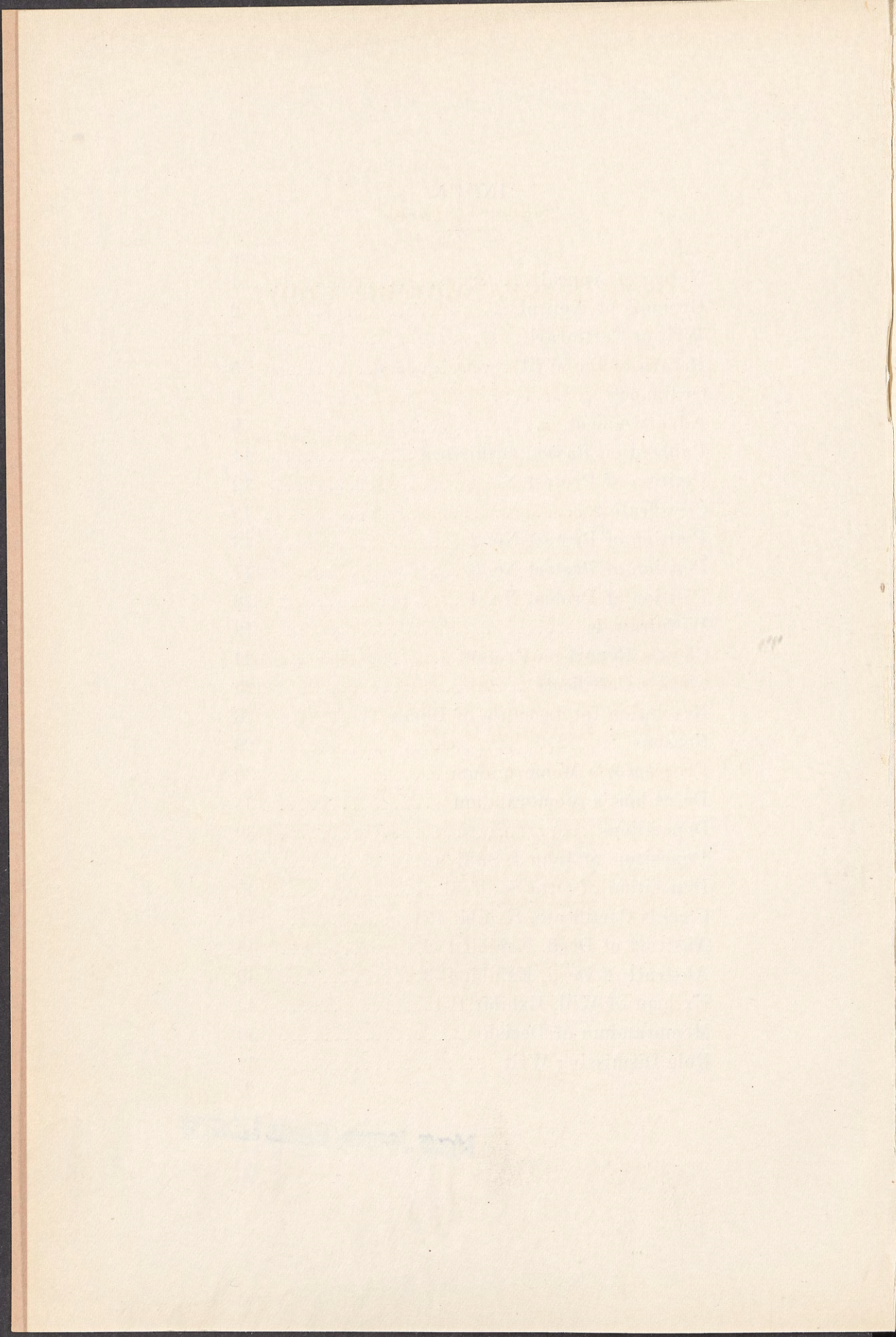


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Notice of Appeal.

(Filed Feb. 10, 1928.)

New Jersey Supreme Court

KATHERINE V. SULLIVAN,
Prosecutor-Appellant,

vs.

MAYOR AND COUNCIL OF THE
BOROUGH OF RAMSEY,
Defendant-Appellee.

10

On Certiorari.

To: J. W. & E. A. DEYOE,
Attorneys for Defendant-Appellee:

20

PLEASE TAKE NOTICE that the Prosecutor in the within stated proceeding appeals from the whole of the judgment entered in this cause to the Court of Errors and Appeals.

Dated, January 27th, 1928.

WRIGHT, VANDERBURGH & MCCARTHY,
Attorneys for Prosecutor-Appellant.

30

Due service of the within Notice acknowledged this 28th day of January, 1928.

J. W. & E. A. DEYOE,
Attorneys for Defendant-Appellee.

A true copy.

EDWARD J. KELLEHER,
Clerk.

40

Grounds of Appeal.

(Filed Feb. 20, 1928)

(Duly Acknowledged.)

NEW JERSEY COURT OF ERRORS AND
APPEALS.

10

KATHERINE V. SULLIVAN,
Prosecutor-Appellant,*vs.*MAYOR AND COUNCIL OF THE
BOROUGH OF RAMSEY,
Defendant-Appellee.

On Certiorari.

20

The Appellant states the following grounds of appeal in this cause:

1. Because the Supreme Court adjudged that the defendant, Borough of Ramsey, did not exercise its judgment corruptly, fraudulently or erroneously in any other way in disregarding the protests signed against the ordinance referred to.
2. Because the Supreme Court adjudged it not improper for the Clerk of the Borough of Ramsey to permit the withdrawal of names from said protests after the same had been filed with the said Clerk.
3. Because the Supreme Court permitted the withdrawal of names from said protests after the Clerk had certified the protests as sufficient in law.
4. Because the Supreme Court adjudged it not improper for the Clerk to remove names from

40

Writ of Certiorari.

the list of owners of property when the same were incorrectly set forth upon the assessment roll.

5. Because the Supreme Court refused to overrule the action of the defendant and its Clerk.

6. Because the Supreme Court adjudged the Prosecutor's writ of certiorari should be dismissed.

7. Because the judgment of the Supreme Court was in various other respects contrary to law.

WRIGHT, VANDERBURGH & McCARTHY,
Attorneys for Prosecutor-Appellant.

10

20

Writ of Certiorari.

(Filed March 12, 1927.)

NEW JERSEY, ss.: THE STATE OF NEW JERSEY,—
TO THE MAYOR AND COUNCIL
OF THE BOROUGH OF RAMSEY,
GREETINGS: We, being willing
(SEAL) for certain reasons to be cer-
tified of the Ordinance, Pro-
tests, Certificates and Resolu-
tion of the Mayor and Council
of the Borough of Ramsey, in

30

relation to the purchase of a plot of ground with a building erected thereon to be used as a Municipal Building, and to issue bonds to pay the cost thereof, do command you that you certify and send under your Seal to our Justices of the Supreme Court at Trenton, on the third day of May, nineteen hundred and twenty-seven, the said Ordi-

40

Writ of Certiorari.

10 nance, Protests, Certificates and Resolution together with all things touching and concerning the same as fully and completely as they remain before you, together with this, our Writ that we may cause to be done thereof what of right and justice and according to the laws of the State of New Jersey ought to be done.

Witness, WILLIAM S. GUMMERE, Esq., Chief Justice of our Supreme Court at Trenton, this 16th day of March in the year of our Lord One Thousand Nine Hundred and twenty-seven.

EDWARD J. KELLEHER,
Clerk.

20 JOHN J. SULLIVAN,
Attorney of Prosecutor.

The within Writ is allowed.

The cause to be argued or submitted at May Term, 1927.

Mar. 12, 1927.

C. W. PARKER,
J. S. C.

30

40

Return of the Writ.
NEW JERSEY SUPREME COURT.

<p style="text-align: center;">KATHERINE V. SULLIVAN, Prosecutor,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">THE MAYOR AND COUNCIL OF THE BOROUGH OF RAMSEY, Defendant.</p>	<p style="font-size: 4em; line-height: 1;">}</p>	<p style="text-align: center;">On Certiorari 10</p>
--	--	---

The Mayor and Council of the Borough of Ramsey, by F. William Gertzen, Mayor, and Otto Saalfeld, Borough Clerk, do herewith send to the Supreme Court of the State of New Jersey, the ordinance relating to the purchase of a plot of ground with the building thereon to be used as a municipal building and to issue bonds to pay the costs thereof, protests, certificate and resolution, together with all things touching and concerning the same, as by the writ of certiorari sealed the twelfth day of March, 1927, before Honorable William S. Gummere, Chief Justice of the Supreme Court, we are commanded to do. 20

I, Otto Saalfeld, Clerk of the Borough of Ramsey, do certify that the following are true copies of the said ordinance, protests, certificate, and resolution, together with all things touching and concerning the same, as they remain of record in the office of the Clerk of the Borough of Ramsey. 30

Sealed with the seal of the Borough of Ramsey, and dated this 27th day of April, 1927.

(Seal)
 OTTO SAALFELD,
 Borough Clerk.

F. WM. GERTZEN
 Mayor.

40

Ordinance.

An Ordinance to Provide for the Purchase of a Plot of Ground with a Building Erected Thereon to be Used as a Municipal Building and to Issue Bonds to Pay the Costs Thereof.

10 The Council of the Borough of Ramsey hereby ordains:

(1) That the Borough of Ramsey purchase the following described plot of land with the building erected thereon of non-fireproof construction, to be used as a Municipal Building in which to transact the business of the Borough and to locate the public offices thereof, to wit:

20 Beginning at a point on the southerly line of Main Street where the same is intersected by the westerly line of lands conveyed by Levinia E. Forshay and William S. Valentine and Maria F. Valentine, his wife, to the First National Bank of Ramsey by deed dated March 13, 1909 and recorded in the Clerk's office of Bergen County in Book 718 of deeds on page 191, said point of beginning being also in the east-
 30 erly line of lands now or formerly of John J. May, and running from thence (1) South 87 degrees and 36 minutes East, along the said southerly line of Main Street 50 feet to lands of Fannie D. B. Pulis, thence (2) south 5 degrees and 58 minutes East along lands of the said Pulis 100 feet, thence (3) north 87 degrees and 36 minutes west, parallel with Main Street, 50 feet to lands of the said May, thence (4) north 5 degrees and 58 minutes West, along lands of May, 100 feet to the point or place of beginning.

40 (2) That the cost of said tract of land and building erected thereon shall not exceed the sum

Ordinance.

of \$24,000.00 which amount of money is hereby appropriated for that purpose.

(3) That for the purpose of securing the money required for the purchase of said tract of land and said building erected thereon, the Borough Council of the Borough of Ramsey is hereby authorized to issue twenty-four bonds numbered from one consecutively to twenty-four inclusive, in the denomination of One Thousand Dollars each; said bonds to be dated April 1, 1927, and to bear interest at the rate of five per cent. per annum, payable semi-annually; bond number one to become due April 1, 1928, and one bond to become due on the first day of April in each year thereafter as numbered until all are paid. The principal and interest on said bonds to be payable at the First National Bank and Trust Company of Ramsey, N. J., as the same shall become due. Said bonds to be of such form as the Borough Council may hereafter by resolution determine. 10
20

(4) It is hereby determined and declared as follows:

(a) The probable period of usefulness of said tract of land and building erected thereon is thirty years. 30

(b) The average assessed valuation of the taxable real property (including improvements) of the Borough of Ramsey computed upon the next three preceding valuations thereof in manner provided in Section 12 of Chapter 252 of the Laws of 1916 as amended is \$2,614,256.

(c) That the net debt of the Borough as computed in manner provided in Section 12 of said Act is \$119,124.96. 40

Ordinance.

(d) That the statement required by Section 12 of said Act has been filed as required by law.

(5) This ordinance shall take effect ten days after the publication thereof as required by law.

10 Introduced: January 26, 1927.
Passed: February 8, 1927.
Approved: February 8, 1927.

F. W. M. GERTZEN,
Mayor.

Attest:

OTTO SAALFELD,
Borough Clerk.

20 This is to certify that the foregoing ordinance was introduced at a meeting of the Council of the Borough of Ramsey held January 25, 1927, and passed at first reading, on roll call by affirmative vote of Councilmen Collier, Conklin, Giorloff, Rouse and Wood, being all the Councilmen present at this meeting.

30 Thereupon, at the same meeting, a resolution was passed directing the Borough Clerk to publish the ordinance at least once in manner required by law in the Ramsey Journal with notice of the introduction thereof and stating that the Council will further consider the ordinance for final passage on February 8, 1927, at eight o'clock, P. M. at the Fire House in the Borough, which resolution was also passed on roll call vote by all the Councilmen above named voting "Aye" and thereafter, on January 25, 1927, approved by F. William Gertzen, Mayor.

OTTO SAALFELD,
Borough Clerk.

40

Advertisement.

Ordinance entitled "An Ordinance to provide for the purchase of a plot of ground with a building erected thereon to be used as a Municipal Building and to issue bonds to pay the costs thereof," in same form as above was published in the Ramsey Journal January 27, and February 3, 1927, as required by law, with Notice as follows attached: 10

NOTICE.

Notice is hereby given that the foregoing ordinance was introduced at a meeting of the Council of the Borough of Ramsey held on the twenty-fifth day of January, 1927, and passed its first reading and that said ordinance will be considered for final passage at a meeting of the Council of said Borough to be held on the eighth day of February, 1927, at eight o'clock, P. M., at the Fire House in the Borough. 20

Dated: January 26th, 1927.

OTTO SAALFELD,
Borough Clerk

This is to certify that the foregoing ordinance was, at a meeting of the Council held February 8, 1927, passed at second reading, on roll call by the six Councilmen voting "Aye" and that thereafter the said ordinance was passed on final reading and adopted on roll call vote by all of the six Councilmen voting "Aye." That thereupon the said ordinance was approved by F. Wm. Gertzen, Mayor, and that thereafter the following resolu- 30

Advertisement.

tion was adopted on roll call vote by all of the six Councilmen voting "Aye":

"Resolution by Mr. Conklin seconded by Mr. Giorloff.

10 RESOLVED, That whereas Ordinance entitled: 'An Ordinance to provide for the purchase of a plot of ground with a building erected thereon to be used as a Municipal Building and to issue bonds to pay the costs thereof, has been finally passed by the Council and approved by the Mayor of this Borough. Therefore, be it resolved that said ordinance together with a notice of the passage and approval thereof and with statement in form provided by Chapter 252 of P. L. 1916, as amended, relating to the issuance of bonds shall be published in the Ramsey Journal in manner required by law. And be it further resolved, that said notice and statement shall specify March 7, 1927 (a day not less than 20 days after the first publication), as the date after which the said bonds authorized by said Ordinance will be delivered and issued.' "

20

30 Thereupon, on February 8, 1927, F. Wm. Gertzen, Mayor, approved of said resolution.

OTTO SAALFELD,
Borough Clerk.

Publication Passed Ordinance.

Ordinance entitled "An Ordinance to provide for the purchase of a plot of ground with a building erected thereon to be used as a Municipal Building and to issue bonds to pay the costs thereof," in same form as above set forth, attested and approved, viz.:

"Introduced January 25th, 1927. 10

Passed: February 8th, 1927.

Approved: February 8th, 1927.

F. W. M. GERTZEN,
Mayor.

Attest:

OTTO SAALFELD,
Borough Clerk."

with notice, viz.:

20

NOTICE.

The foregoing ordinance was passed by the Council and approved by the Mayor of the Borough of Ramsey on the eighth day of February, 1927. The bonds authorized thereby will be issued and delivered after the seventh day of March, 1927, and any suit, action, or proceeding, to set aside or vacate this ordinance must be begun within twenty days after the publication of this statement. Such bonds will not be issued if protests against the same are filed under Section Nine (Chapter 252, P. L. 1916) as amended, unless a proposition for the issuance thereof shall be adopted at an election under said section.

30

OTTO SAALFELD,
Borough Clerk.

attached, was published in the Ramsey Journal February 10, 1927, in manner required by law.

40

Petition of Protest No. 1.

TO THE HONORABLE MAYOR AND COUNCILMEN,
Borough of Ramsey:

MR. OTTO SAALFELD, Borough Clerk.

Gentlemen:

10 The undersigned, taxpayers, representing 10%
in amount of the assessed valuation of the Bor-
ough of Ramsey, hereby formally protest against
the issuance of twenty-four bonds, numbered
consecutively from 1 to 24 inclusive; in the de-
nomination of \$1,000. each, as provided for in
Ordinance No. 142, dated January 26, 1927,

20 “To provide for the purchase of a plot
of ground with a building erected thereon
to be used as a municipal building and to
issue bonds to pay the costs thereof.”

at a cost of \$24,000.00.

	<i>Name.</i>	<i>Name.</i>
	Howard H. Bellows	H. W. Secor
	Katherine V. Sullivan	Annie Pfeiffer
	C. E. Baker	Lawrence J. Peiffer
	Mrs. C. E. Baker	Eveleen V. Geary
	C. A. Polizzi	James Young
30	R. P. Polizzi	Jennie Young
	D. Suraci	J. E. Canhum
	James J. Thompson	J. H. Rice
	Bruno M. Reichel	Agnes R. Rice
	W. M. Christopher	Annie E. Haberle
	L. P. Eichorn	Ernest C. Haberle
	Anna Davies	Corinne Shuart
	F. Davies	Wm. A. Gibbons
	Eleanor D. Gorham	D. W. Gibbons
	Henry Gorham	H. F. Koch

40

Petition of Protest No. 1.

<i>Name</i>	<i>Name</i>	
M. Halloran	S. R. Koch	
Charles J. Winter	Joseph T. Zielinski	
Franklin Shuart	E. Zielinski	
Charles W. Eidel	Grace L. Van Gelder	
Mary Eidel	John M. Van Gelder	10
Grace D. Foss	Leora D. Davidson	
Albert C. Foss	H. A. Davidson	
Laurence W. North	John S. Garrison	
Mae A. North	Ella Drinkwater	
Henry Eichorn	H. M. Drinkwater	
M. G. Wentzel	H. F. Phipard	
Rachel Van Benschoten	Claire Phipard	
Jas. Van Benschoten	Hakon Hansen	
F. N. Newman	J. R. Stricker	
M. A. Dinneen	Marie N. Stricker	20
Martin M. Henry	William H. Marden	
Henry A. Fox	Mary G. Marden	
G. Hagerman	Chas. Ferdinand	
Andrew Gross	Margaret A. Ferdinand	
Walter J. Holt	Charles G. Haberle	
Slover Shuart	Miles F. Stone	
Richard Morris	C. M. Stone	
Mary E. Cullen	Florence J. Ferguson	
Frank H. Cullen	C. Reed Ferguson	
M. Elizabeth Weber	Elizabeth M. Earl	30
Walter W. Weber	Henry J. Van Gelder	
Cecile Isner	Fred R. Giles	
Wm. F. Leuper	Annie T. Giles	
Anna F. Leuper	Anna R. Schultz	
A. Weberson, Jr.	F. J. Schultz	
George Eichorn	C. A. Siebold	
Janet Eichorn	H. L. Bayles	
Dora Hagerman	John V. Eastland	
Henry Buss	Katharine M. Eastland	40

Petition of Protest No. 1.

	<i>Name</i>	<i>Name</i>
	Geo. B. Ackerman	William Shea
	Frank A. Markley	Robert V. Hopkins
	Angelina W. Batt	John A. DeBaun
	J. C. Batt	Matilda Leach
10	Wilfred M. Marsters	Arnold E. Leach
	Rudolph Aeberley	Ellen M. Feldmann
	L. R. Benson	William P. Feldmann
	George R. Kelbfus	Joseph D. Surpless
	Frank E. Lutz	Edna F. Surpless
	Martha E. Lutz	Mary E. Taubner
	C. F. Young	Fannie Shuart
	W. E. Blackslee	Cornelius H. Shuart, Jr.
	Mrs. W. E. Blackslee	Mrs. R. Sprague
	J. L. Edson	C. W. Whitlock
20	M. C. Edson	Otis May & Nellie May
	H. J. Schneider	Benj. Larzilere
	Helen Z. Schneider	Thos. H. Decker
	James H. O'Brien	D. Portadine
	Sara Schierloh	D. Davidson
	Frederick W. Schierloh	Katherine M. Davidson
	Grace Montrose	James Hopper
	O. C. Rudbeck	Mrs. Laura B. McKane
	C. R. Coe	Mrs. Sarah E. Valentine
	F. E. Hopper	Queenie DeB. Hopkins
30	W. B. Hopper	Meda J. Alberse
	Marie Winkler	Lawernce A. Ludwig
	Waldemer R. Winkler	P. L. Alberse
		Gean D. Smith

Certificate.

The foregoing protest against the issuance of \$24,000. bonds provided for in ordinance 142 (which was passed on the 8th day of February, 1927, and approved by the Mayor on the same day), signed by taxpayers representing 10% in amount of the assessed valuation of the Borough of Ramsey, was filed in the office of the Clerk of the Borough of Ramsey on February 17, 1927, within ten days after the publication of the ordinance authorizing the bonds, in accordance with Section 9, Chapter 252, P. L. 1916 as amended.

10

Clerk.

Received February 17, 1927.

NOTE: The above certificate was attached to the foregoing protest when delivered to the Clerk.

20

30

40

Petition of Protest No. 2.

(Filed Feb. 19, 1927.)

TO THE HONORABLE MAYOR AND COUNCILMEN,
Borough of Ramsey:

MR. OTTO SAALFELD, Borough Clerk.

10

Gentlemen:

The undersigned taxpayers hereby formally protest against the issuance of twenty-four bonds, numbered consecutively from 1 to 24 inclusive, in the denomination of \$1,000. each, as provided for in Ordinance No. 142, dated January 26, 1927.

20

“To provide for the purchase of a plot of ground with a building erected thereon to be used as a municipal building and to issue bonds to pay the costs thereof”

at a cost of \$24,000.

<i>Name.</i>	<i>Name.</i>
Lester S. Rutan	Frank A. Revere
Hazel Rutan	Jake Monroe
A. M. Smith	

30

40

Petition of Protest No. 3.

(Filed Feb. 19, 1927.)

TO THE HONORABLE MAYOR AND COUNCILMEN,
Borough of Ramsey:

MR. OTTO SAALFELD, Borough Clerk.

10

Gentlemen:

The undersigned taxpayers hereby formally protest against the issuance of twenty-four bonds, numbered consecutively from 1 to 24 inclusive, in the denomination of \$1,000. each, as provided for in Ordinance No. 142, dated January 26, 1927,

“To provide for the purchase of a plot of ground with a building erected thereon to be used as a municipal building and to issue bonds to pay the costs thereof”

20

at a cost of \$24,000.

<i>Name.</i>	<i>Name.</i>
Lena Buss	Everett Ackerson
David Ackerson	Winifred Ackerson
Maria C. Ackerson	

30

40

Petition of Protest No. 4.

(Filed February 21, 1927.)

TO THE HONORABLE MAYOR AND COUNCILMEN,
Borough of Ramsey:

10 MR. OTTO SAALFELD, Borough Clerk.

Gentlemen:

The undersigned taxpayers hereby formally protest against the issuance of twenty-four bonds, numbered consecutively from 1 to 24 inclusive, in the denomination of \$1,000. each, as provided for in Ordinance No. 142, dated January 26, 1927,

20 "To provide for the purchase of a plot of ground with a building erected thereon to be used as a municipal building and to issue bonds to pay the costs thereof"

at a cost of \$24,000.

	<i>Name.</i>	<i>Name.</i>
	Francisca P. Goodnough	Harold Stikeman
	S. J. Krause	Jenetta Stikeman
	S. J. Krause	Mrs. Cecelia Sneider
	Isaac Everson	Babette Weiss
	Wm. F. Halsted	Charles Weiss
30	Martha Halsted	William C. Weiss
	Grace Jackson	Carrie S. Abrams
	R. W. Jackson	

This is to certify that the foregoing are true copies of the protests filed in my office February 17, 1927, February 19, 1927, and February 21, 1927.

OTTO SAALFELD,
Borough Clerk.

Withdrawals.

February 19, 1927.

MR. OTTO SAALFELD, Borough Clerk,
Ramsey, N. J.

Dear Sir:

10

You will find my signature on the protest against the issuance of \$24,000.00 in bonds to provide for the purchase of the plot of ground and building erected thereon and owned by the First National Bank and Trust Co. of Ramsey, New Jersey. After reconsideration I request you to remove my signature from this protest petition.

1

Sincerely yours,

BENJAMIN LARZELERE.

20

Dated: February 19, 1927.

Attest: E. F. CARPENTER.

NOTE: Separate letters bearing date Feb. 19. as above (unless otherwise noted) requesting removal of signatures from protest petition, exactly similar in form to the above were signed by following names before the following attesting witnesses:

2

Sincerely yours,

SLOVER SHUART.

30

Dated: Feb. 19, 1927.

Attest: E. F. CARPENTER.

3

Sincerely yours,

JAMES HOPPER

Dated: Feb. 19, 1927.

Attest: J. STEWART SMELTZER.

40

Withdrawals.

- 4 Sincerely yours,
MILTON G. WENTZEL.
Dated: Feb. 19, 1927.
Attest: J. STEWART SMELTZER.
- 10 5 Sincerely yours,
H. W. SECOR.
Dated: Feb. 19, 1927.
Attest: G. A. GIORLOFF.
- 6 Sincerely yours,
L. R. BENSON.
Dated: Feb. 20th, 1927.
Attest: F. WM. GERTZEN.
- 20 7 Sincerely yours,
CHARLES J. WINTER.
Dated: Feb. 19, 1927.
Attest: WM. R. TROOP.
- 8 Sincerely yours,
WILLIAM SHEA.
Dated: Feb. 19, 1927.
Attest: WM. R. TROOP.
- 30 9 Sincerely yours,
MICHAEL HALLORAN.
Dated: Feb. 21, 1927.
Attest: E. F. CARPENTER.
- 10 Sincerely yours,
HENRY GORHAM,
ELEANOR D. GORHAM.
Dated: Feb. 19, 1927.
Attest: WM. R. TROOP.
- 40

Withdrawals.

- 17 Letter bears date February 21, 1927.
Sincerely yours,
JOSEPH D. SURPLESS.
Dated: Feb. 19, 1927.
10 Attest: J. STEWART SMELTZER.
- 18 Sincerely yours,
ANNIE E. HABERLE,
ERNEST C. HABERLE.
Dated: Feb. 19, 1927.
Attest: JOHN B. FINCH.
- 19 Sincerely yours,
CHARLIE S. HABERLE.
20 Dated: Feb. 19, 1927.
Attest: JOHN B. FINCH.
- 20 Sincerely yours,
OTTO C. RUDBECK.
Dated: Feb. 20, 1927.
Attest: F. WM. GERTZEN.
- 21 Sincerely yours,
30 CORINNA A. POLIZZI.
Dated: Ramsey, N. J., Feb. 20, 1927.
Attest: F. WM. GERTZEN.
- 22 Sincerely yours,
RAYMOND P. POLIZZI.
Dated: Ramsey, N. J., Feb. 20, 1927.
Attest: F. WM. GERTZEN.

Withdrawals.

23 Letter bears date February 21, 1927.

Sincerely yours,

W. E. BLAKSLEE,
MRS. W. E. BLAKSLEE.

Dated: Feb. 19, 1927.

Attest: E. F. CARPENTER.

10

24 Sincerely yours,

WM. A. GIBBONS,
DOROTHY W. GIBBONS.

Dated: Feb. 21, 1927.

Attest: E. F. CARPENTER.

25 Sincerely yours,

W. M. CHRISTOPHER. 20

Dated: Feb. 19, 1927.

Attest: E. F. CARPENTER.

26 Sincerely yours,

and

27

MATILDA LEACH,
ARNOLD E. LEACH,
WM. P. FELDMANN,
ELLEN M. FELDMANN.

Dated: Feb. 20, 1927.

Attest: JOHN FRANK DEBAUN, JR.

30

This is to certify that the foregoing are true copies of twenty-seven written requests to remove signatures of persons signing same, from protest petition, as filed in my office, on the respective dates thereof.

OTTO SAALFELD,
Borough Clerk.

40

Clerk's Report on Protest.

I hereby certify that the following is a true copy of a report of the Borough Clerk submitted at the meeting of the Council of the Borough of Ramsey held February 23, 1927 and the action of the Council thereon, relating to ordinance above entitled.

10 "The Clerk reported that there had been filed with him a protest against the issuance of bonds under Ordinance No. 142, on motion by Mr. Rouse seconded by Mr. Collier the report was received and ordered to be spread in full upon the minutes.

The report is as follows:

February 23, 1927.

TO THE HONORABLE MAYOR AND COUNCILMEN:
Borough of Ramsey.

20 Gentlemen:

I hereby report that there was filed with me as Borough Clerk, a written protest, in four parts, against issuance of bonds under Ordinance entitled:

'An Ordinance to provide for the purchase of a plot of ground with a building erected thereon to be used as a Municipal Building and to issue bonds to pay the costs thereof.'

30 And also, twenty-six sworn written requests to have signatures removed from said protests, and that I am engaged in checking valuations on the above protest petition and will report on the filing and sufficiency of the above without delay.

Yours truly,

OTTO SAALFELD,
Borough Clerk "

OTTO SAALFELD,
Borough Clerk.

40

Clerk's Certificate.

I hereby certify that the following is a true copy of a report of the Borough Clerk submitted at the meeting of the Council of the Borough of Ramsey held March 1, 1927, and the action of the Council thereon, relating to ordinance above entitled.

"Certificate of the Clerk of the Borough of Ramsey as to the sufficiency of Protests against an Ordinance entitled 'An Ordinance to provide for the purchase of a plot of ground with a building erected thereon to be used as a Municipal Building and to issue bonds to pay the cost thereof.' 10

The undersigned, Clerk of the Borough of Ramsey, hereby certifies as follows:

The ordinance referred to above was finally passed and approved by the Mayor on February 8, 1927, and was published in the Ramsey Journal, the official newspaper of the Borough, on February 10th and February 24th, 1927. Within ten days after publication of the said ordinance protests against the issuance of the bonds thereby authorized were filed in my office. The said protests were neither signed by one-third of the governing body in office voting on such ordinance nor by taxpayers representing ten per centum in amount of the assessed valuation of said Borough, whose names appear on the last preceding assessment roll thereof and said protests are not sufficient. 20 30

IN WITNESS WHEREOF this instrument has been executed this 28th day of February, 1927, and the seal of the Borough hereto affixed.

OTTO SAALFELD,
Borough Clerk. 40

Resolution for Issuance of Bonds.

The above certificate was filed in my office on
February 28, 1927.

OTTO SAALFELD,
Borough Clerk."

OTTO SAALFELD,
Borough Clerk.

10

Resolution for Issuance of Bonds.

This is to certify that the following is a true copy of a resolution passed at a meeting of the Council of the Borough of Ramsey, held March 1, 1927, by vote of roll call, with Councilmen Collier, Conklin, Giorloff, Morrison, Rouse and Wood being all the Councilmen present voting "Aye":

20

"RESOLVED, That the Clerk and Attorney be directed to prepare advertisement asking for bids for the issuance of \$24,000. Bonds, in denomination of \$1,000.00 each, as provided for in Ordinance No. 142, dated January 26, 1927

An Ordinance to provide for the purchase of a plot of ground with a building erected thereon to be used as a Municipal Building and to issue bonds to pay the costs thereof,"

30

which was approved by F. Wm. Gertzen, Mayor, March 1, 1927.

OTTO SAALFELD,
Borough Clerk

40

Resolution for Issuance of Bonds.

THIS IS TO CERTIFY that the following is a true copy of a resolution passed by the Council of the Borough of Ramsey, at a meeting held March 8th, 1927:

Resolution by Councilman Rouse.
Seconded by Councilman Morrison. 10
RESOLVED, that

(1) The bonds to be issued pursuant to the provisions of an ordinance entitled "An ordinance to provide for the purchase of a plot of ground with a building erected thereon to be used as a Municipal Building and to issue bonds to pay the costs thereof" shall be in substantially the following form:

(By consent form of bond omitted.) 20

(2) Said bonds should be sold on sealed proposals on March 29, 1927, and the Borough Clerk is hereby authorized and directed to publish a notice of sale at least once, the first publication not less than ten days before said date, in the Ramsey Journal, a newspaper published in the Borough, and in the Bond Buyer, a financial newspaper published in New York City.

(3) Such notice of sale shall be in substantially the following form: 30

(Form of notice omitted by consent.)

The foregoing resolution was adopted by the following vote:

Ayes: Collier, Conklin, Giorloff, Morrison,
Rouse and Wood.

Nays: None.

Reasons.

The above resolution was presented to Mayor F. Wm. Gertzen, who approved the same by writing thereon "Approved March 8, 1927. F. Wm. Gertzen, Mayor."

OTTO SAALFELD,
Borough Clerk.

10

Reasons.

NEW JERSEY SUPREME COURT.

KATHERINE V. SULLIVAN,
Prosecutor,

vs.

THE MAYOR AND COUNCIL OF THE
BOROUGH OF RAMSEY,
Defendants.

On Certiorari.

20

30

The said prosecutor by John J. Sullivan, Esq., attorney, Wright, Vanderburgh & McCarthy, of counsel, comes and prays that the action of the Mayor and Council of the Borough of Ramsey may be set aside, reversed and for nothing holden, for the following reasons:

1. The protest and protests filed pursuant to Chapter 252, P. L. 1916, contained the signatures of taxpayers representing more than ten per centum of the assessed valuation of the said Borough.

40

2. After said protest was filed, and the filing thereof acknowledged to have been so filed by the Borough Clerk, the said Borough Clerk permitted the removal of sundry names therefrom.

Reasons.

3. The said Borough Clerk pursuant to purported requests for the withdrawal of signatures, reported such signatures as omitted from the protest.

4. The Borough Clerk reported that one protest in four parts had been submitted to him, instead of four separate protests at different times. 10

5. The Borough Clerk assumed to remove names from the protests without regard for the date of filing or whether antecedent or subsequent to the receiving of requests to withdraw names.

6. The Borough Clerk had no right to remove any names, the protest becoming effective when filed with and accepted by him as such Borough Clerk. 20

7. The Borough Clerk having acknowledged the sufficiency of the first protest when filed with him, could not thereafter allege or report an insufficient number of signatures of property owners.

8. The said protest together with the subsequent protests became effective when filed with the Borough Clerk, and not at some subsequent date or when reported to the Mayor and Council. 30

Dated May 6, 1927.

JOHN J. SULLIVAN,
Attorney of Prosecutor.

WRIGHT, VANDERBURGH & MCCARTHY,
Of Counsel.

Valuation Statement.

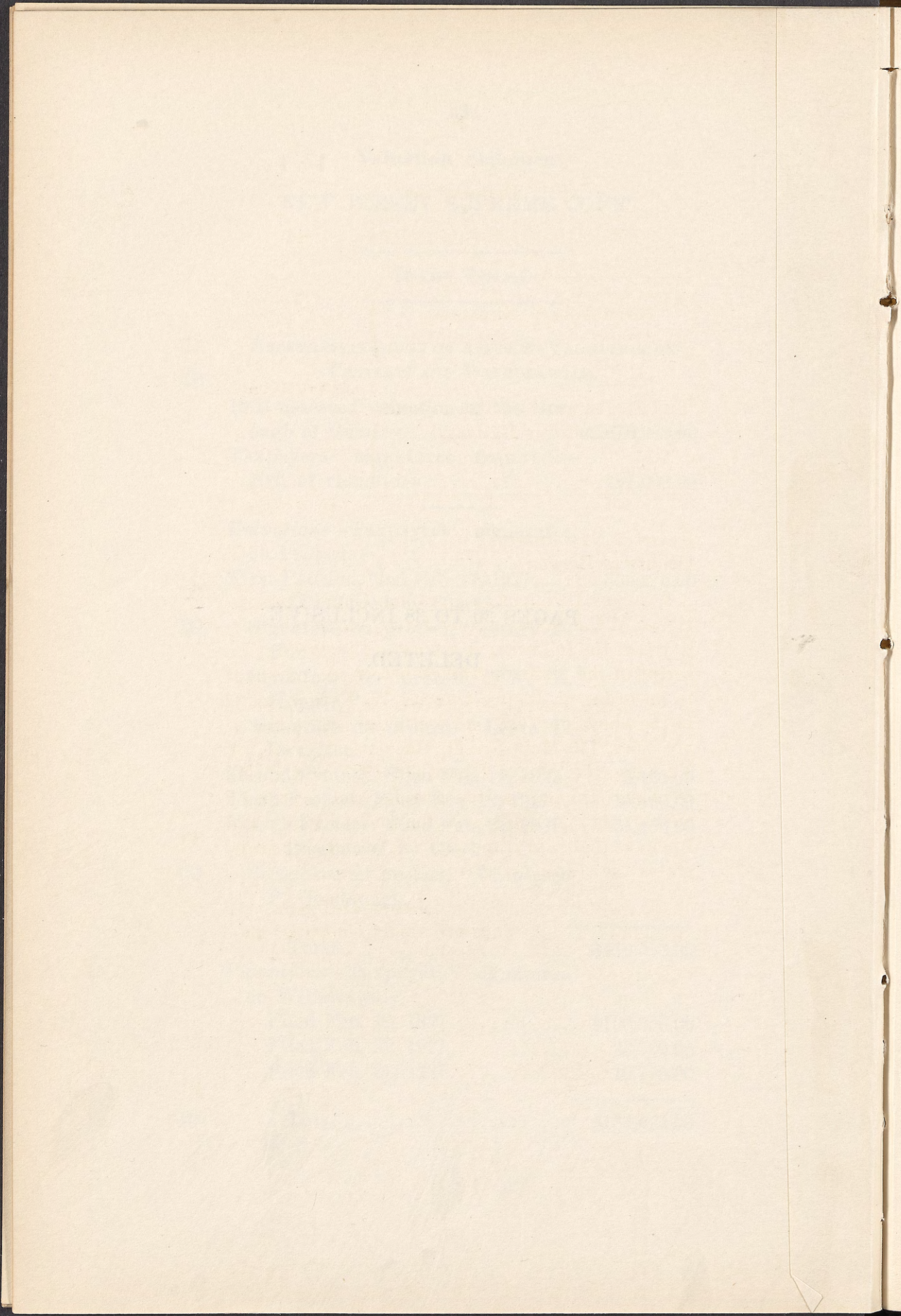
NEW JERSEY SUPREME COURT.

 [SAME TITLE.]

AGREED STATEMENT OF ASSESSED VALUATION ON PROTESTS AND WITHDRAWALS.	
10	1926 assessed valuation of the Borough of Ramsey \$2,870,989.00
	Taxpayers' signatures required—
	10% of valuations 287,098.90
	<hr/>
	<i>Valuations</i> —Taxpayers' signatures on Protests:
	First Petition, filed Feb. 17, 1927 366,275.00
	Disallowed by Clerk;—
20	Signature on protest, "Henry A. Fox."
	Signature on protest, "W. B. Hopper."
	Signature on protest, "Leora D. Davidson."
	Second Protest: Filed Feb. 19, 1927. 5,425.00
	Third Protest: Filed Feb. 19, 1927. 14,400.00
	Fourth Protest: Filed Feb. 21, 1927. 24,450.00
	Disallowed by Clerk;—
30	Signature on protest, "Francesco P. Goodnough."
	<hr/>
	Total \$410,550.00
	<i>Valuations</i> —Taxpayers' signatures on Withdrawals:
	Filed Feb. 19, 1927 \$100,350.00
	Filed Feb. 20, 1927 23,500.00
	Filed Feb. 21, 1927 10,775.00
	<hr/>
40	Total \$134,625.00

PAGES 30 TO 38 INCLUSIVE

DELETED.



Depositions.**NEW JERSEY SUPREME COURT.**

<p style="text-align: center;">KATHERINE V. SULLIVAN, Prosecutor,</p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">THE MAYOR AND COUNCIL OF THE BOROUGH OF RAMSEY, Defendants.</p>	}	<p style="text-align: right;">10</p> <p style="text-align: right;">On Certiorari.</p>
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STATE OF NEW JERSEY, }
County of Bergen, } ss. :

I, JAMES DETURCK, a Supreme Court Commissioner of the State of New Jersey, do hereby certify that the following is a true and accurate transcript of the testimony taken before me pursuant to an order of Justice Charles W. Parker, made in the above matter; said testimony was taken at my office, 140 Main Street, Hackensack, N. J., on Tuesday, the 20th of December, 1927, at 4 P. M., by Agnes Dougan, a stenographer duly sworn by me to truly take and transcribe said testimony and I believe that said transcript fairly and accurately states the testimony given.

JAMES DETURCK,
Supreme Court Commissioner.

Deposition of John J. Sullivan.

NEW JERSEY SUPREME COURT.

10	KATHERINE V. SULLIVAN, Prosecutor, <i>vs.</i> THE MAYOR AND COUNCIL OF THE BOROUGH OF RAMSEY, Defendants.	}	On Certiorari.
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APPEARANCES:

20 WRIGHT, VANDERBURGH & MCCARTHY, for
 Prosecutor, Katherine V. Sullivan.
 J. W. & E. A. DEYOE, for Defendant, Mayor
 and Council of the Borough of Ramsey.

JOHN J. SULLIVAN, being duly sworn according
 to law, upon his oath deposes and says:

By Mr. McCarthy:

30 Q. You are the husband of the prosecutor in
 this case? A. I am.

 Q. Who filed the protests with the Borough
 Clerk on February 17th, 1927? A. I did.

 Q. And were the protests acknowledged in any
 way by the defendant's Borough Clerk? A. They
 were.

40 Q. How? A. Upon presentation of the original
 petition to the Clerk, bearing the signatures of the
 protestants, I also submitted a typewritten copy
 which bore the names of each protestant. I pre-
 sented the original protest to Mr. Saalfeld to-

Deposition of John J. Sullivan.

gether with the duplicate and compared the names on both petitions with Mr. Saalfeld; then requested him, having stated that the petitions contained more than 10% according to the provisions of the Bond Act, that he sign a certificate so acknowledging and that he also give me a receipt for the delivery of the original petition. 10

Q. And have you that receipt? A. I have.

Q. Produce it, please. A. This is the original receipt signed by Mr. Saalfeld and also the certificate indicating that the petition contained the required amount of signatures by property owners, which certificate was also signed by Mr. Saalfeld as Clerk.

Q. I show you paper P-1 for identification and ask you is this the paper you referred to as being signed by the Borough Clerk upon receipt of the first protest and attached to the first protest? A. It is. 20

Q. And the signature on this, do you know whose it is? A. Yes, Mr. Saalfeld's, made by him in my presence.

Attorney of Prosecutor offers receipt in evidence and marked Exhibit P-1.

Q. Now, Mr. Sullivan, directing your attention to the four signatures referred to in Point One of the Prosecutor's Memorandum and taking them in the order as they appear, did you have the name of Leora D. Davidson on your list? A. Mrs. Leora D. Davidson signed the petition, yes. 30

By Mr. McCarthy: It is stipulated between the parties hereto that the tax duplicate book for the year 1926 shows an item of \$20,400.00 in the following form: Davidson, Jas. A. Est. 40

Deposition of John J. Sullivan.

Q. You are familiar with the parcels referred to? A. I am.

Q. I show you two deeds and ask you if these are the deeds for the parcels referred to? A. They are.

10 Attorney of Prosecutor offers two deeds in evidence.

By Mr. DeYoe: I object to the admission of the deeds as not competent as the statute requires the Clerk to use the assessment record alone.

Deed dated April 17th, 1906, received and marked Exhibit P-2.

Deed dated March 1st, 1906, received and marked Exhibit P-3.

20 Q. Mr. Sullivan, do you know of your own knowledge whether or not James A. Davidson was alive or dead on October 1st, 1925?

By Mr. DeYoe: I object.

A. I do. I know that he was dead at that time.

Q. Referring to the second item, Henry A. Fox, does his name appear on the protest? A. It does.

30 Q. Is the Leora D. Davidson referred to in these deeds, Exhibits P-2 and P-3, the same Leora D. Davidson who signed your petition?

By Mr. DeYoe: I object for the same reasons above stated.

A. It is.

Q. Referring to the second one, Henry A. Fox, does his signature appear on any of the protests?

A. Yes.

40 By Mr. DeYoe: There appears an item in the 1926 tax duplicate as follows: "Fox, Arthur, Assessment \$2950.00."

Deposition of John J. Sullivan.

Q. Do you know the Henry A. Fox who signed the petition? A. I do.

Q. Was he ever known by any other name?

By Mr. DeYoe: I object for the reason that it is immaterial and not competent as the Clerk is required to follow the tax duplicate in making up his calculations. 10

A. Yes, he is commonly known as Arthur Fox.

Q. Referring to the third of the items in part one, have you the signature of W. B. Hopper in the aggregate amount of \$4,200.00? A. I have.

By Mr. DeYoe: There is an item in the 1926 tax duplicate as follows: "Hopper, Walter, Assessment \$4,200." 20

Q. Do you know the Walter B. Hopper who signed the petition?

By Mr. DeYoe: I object for the same reasons as stated before.

A. I know that the W. B. Hopper and Walter Hopper are one and the same person.

Q. Referring to Item 4, have you the name of F. P. Goodnough showing a valuation of \$3,650? A. Yes. 30

By Mr. DeYoe: There appears in the 1926 tax duplicate an item as follows: "Goodnough, F. P. Est., Assessment \$3,650.00."

Q. Do you know the full name of F. P. Goodnough? A. Yes, Francesco P. Goodnough.

Q. Is she married?

By Mr. DeYoe: I object for the same reason. 40

Deposition of John J. Sullivan.

A. She is married and was the wife of Edward H. Goodnough who is now deceased.

Attorney of Prosecutor offers in evidence certified copy of the will of Edward H. Goodnough.

10 By Mr. DeYoe: I object for the same reasons.

Certified copy of will received and marked Exhibit P-4.

Q. Is F. P. Goodnough alive now? A. She is.

Q. And is the F. P. Goodnough, the signer of the petition, the same person as referred to in this will which has been offered as P-4?

20 By Mr. DeYoe: I object.

A. She is.

Cross examination by Mr. DeYoe.

Q. Mr. Sullivan, when you presented your original petition, did you compare the names with Mr. Saalfeld? A. I did. I read the names to him and he followed them on the list that he held.

30 Q. How long were you at the office the day you presented your petition? A. As to the exact time I do not know except as long as it required to place the petitions in Mr. Saalfeld's hands, compare the names, obtain his signatures and depart.

Q. Did you tell him that this was a certification as to the sufficiency of the petition? A. The certificate spoke for itself that he signed.

Q. Mr. Saalfeld is not a lawyer, is he? A. Not to my knowledge.

Q. Are you? A. I am.

40 Q. Did you go over any calculations or figures with him? A. I stated to him that I had already

Deposition of Otto Saalfeld.

gone over the amounts and knew that they contained more than the required 10% under the statute.

Q. That is what you told him but you did not check any figures on the assessment books in his presence? A. At that time we did not check the parcels. 10

By Mr. McCarthy: Prosecutor rests.

 DEFENDANT'S TESTIMONY.

OTTO SAALFELD, being duly sworn according to law, testified as follows:

By Mr. DeYoe:

Q. You are the Clerk of the Borough of Ramsey? A. I am. 20

Q. You have heard the testimony of Mr. Sullivan as to the presentation to you of the original protests? A. Yes.

Q. I show you Exhibit P-1; is this the paper presented to you by Mr. Sullivan? A. Yes, including the petition.

Q. What was stated by Mr. Sullivan to you when he presented the protests with this statement attached? A. Mr. Sullivan requested me to give him a receipt for the protests and delivered to me this paper with the records attached to it. It was folded in his hand like this. 30

Q. What way was it folded? Describe the manner in which it was folded. A. It was folded like this.

Q. Explain. A. It was folded over like this; it was folded over so as to hide this end of the paper. 40

Deposition of Otto Saalfeld.

Q. Not showing the entire page; what part did it show? A. It showed me the right half of this.

Q. Did Mr. Sullivan show this part of the certificate as to sufficiency? A. He didn't explain.

10 Q. How long was he at your office? A. I couldn't say exactly as to the time.

Q. Did you find any statements similar to the statement attached to the protest, Exhibit P-1, in the files of your office? A. I did.

Q. You mean the original of this? A. There were only two copies.

Q. Was the original signed by you? A. It was signed by me but I erased it at once after Mr. Sullivan left me.

20 Q. When did you do that? A. Immediately after, and then I got busy—

Q. Why did you erase it? A. Because I went over this paper.

Q. Because you did what? A. Because I went over this paper; I had a chance to read it over.

Q. Did you later sign in your office a certificate which is attached to your letter? A. No, sir.

Q. Did you ever sign these? A. I signed this in blank form.

30 Q. Did you ever sign P-1 as a certificate in your office? A. No, sir.

Q. But, Mr. Saalfeld, there was then in your office with you the original of P-1 with your signature? A. At that time, yes.

Q. And didn't you know when you signed the last page of the original and copy of P-1 that it was not only a receipt but something else? A. Of course, I am not a lawyer. I had a feeling that Mr. Sullivan was taking advantage of me.

40 By Mr. McCarthy: Strike that out.

*Clerk's Certificate, Exhibit P-1.**Cross examination by Mr. McCarthy.*

A. I took this and then I realized what this paper was intended to be.

Q. Isn't it a fact that before you signed Exhibit P-1 that you and Mr. Sullivan compared the original with the copy? A. It is a long time and I couldn't say. 10

Q. Didn't you go over the names together to see if the copy to which P-1 was attached was a true copy? A. I might have done that, yes.

Clerk's Certificate, Exhibit P-1.

The foregoing protest against the issuance of \$24,000. bonds provided for in ordinance 142 (which was passed on the 8th day of February, 1927, and approved by the Mayor on the same day), signed by taxpayers representing 10% in amount of the assessed valuation of the Borough of Ramsey, was filed in the office of the Clerk of the Borough of Ramsey on February 17, 1927, within ten days after the publication of the ordinance authorizing the bonds, in accordance with Section 9, Chapter 252, P. L. 1916 as amended. 20 30

OTTO SAALFELD,
Clerk

Original of above received.

OTTO SAALFELD,
Clerk.

Abstract of Deed, Exhibit P-2.

	BESSIE GARDNER and FRED-	}	WARRANTY DEED.
	ERICK W. GARDNER, her		
	husband,		
	to		Dated April 17, 1906
10	JAMES A. DAVIDSON and	}	Ack. April 17, 1906
	LEORA D. DAVIDSON. his		Rec. April 21, 1906
	wife.		Book 627 page 247 etc.
			Cons. \$1.00 etc.

Conveys in fee all that certain tract or parcel of land and premises, hereinafter particularly described, situate, lying and being in the Township of Hohokus, in the County of Bergen and State of New Jersey. Described by 13 courses and containing 16.053 acres of land.

20

SECOND TRACT.

Containing one and three hundred and sixty-five thousandths of an acre of land.

30

40

Abstract of Deed, Exhibit P-3.

SARAH ACKERMAN (widow), to JAMES A. DAVIDSON and LEORA D. DAVIDSON, his wife.	}	WARRANTY DEED. Dated March 1, 1906 Ack. March 1, 1906 Rec. March 3, 1906 Book 620 page 542 etc. Cons. \$15,000.00.	10
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Conveys in fee all that certain tract or parcel of land and premises, hereinafter particularly described, situate, lying and being in the Township of Hohokus, in the County of Bergen and State of New Jersey. Described by 16 courses and containing Ninety-three Acres and eight hundred and seventy-nine thousandths (93.879) of an Acre of land. 20

Excerpt of Will, Exhibit P-4.

EDWARD H. GOODNOUGH'S Will provides "Second: I give, devise and bequeath all of the rest, residue and remainder of my estate, real, personal and mixed, and wheresoever the same may be situated, to my wife, FRANCES GOODNOUGH, to be hers absolutely and forever," and appoints her sole executrix. 30

NOTE: Attached to the foregoing exhibit is the certification of the Surrogate of Bergen County, certifying that the foregoing is a true copy of the last will and testament of Edward H. Goodnough.

Memorandum of Decision.

(Filed Jan. 14, 1928.)

NEW JERSEY SUPREME COURT.

10

KATHARINE V. SULLIVAN,
Prosecutor,

v.

BOROUGH OF RAMSEY,
Defendant.

On Certiorari.

20

Before PARKER, J., sitting alone pursuant to the statute.

For the Prosecutor, WRIGHT, VANDERBURGH & McCARTHY.

For the Defendant, J. W. & E. A. DEYOE.

Memorandum of Decision (not to be published in any report).

30

No copy of the writ and return has been furnished to me, but the writ seems to bring up for review the validity or otherwise of a bonding ordinance passed pursuant to chapter 252 of the laws of 1916, as amended; and the precise point to be decided is whether effective protest was made as provided by section 9 of the act, P. L. 534. Several protests signed by sundry taxpayers were lodged within the ten days prescribed in the act; some of the signers within that period gave notice to the borough clerk that their signatures were withdrawn; and in due course the clerk made his

40

Memorandum of Decision.

have the signatures of at least ten per cent in assessed valuation, whose names appeared on the last preceding assessment roll. This is attacked on two grounds: first, that the clerk unlawfully recognized the withdrawals when he should have ignored them. I consider that his action was proper. *Wilson v. Collingswood*, 80 N. J. L. 626. The controlling situation was that existing at the end of the ten days; up to that time protests might be added or withdrawn. 10

Next, that the Clerk acted illegally in refusing to recognize certain names signed to the protest. The statute prescribes that his certificate shall be conclusive but I shall deal with this point on its merits. The test, for the clerk, is whether the names are those of taxpayers "whose names appear on the last assessment roll." There were four names repudiated by him and now questioned. 20

1. Leora D. Davidson signed; the name on the roll is Estate James A. Davidson. No doubt the signer owns the property, but that is not the test; the clerk must go by ownership as indicated on the book. He was not in error in declining to recognize the signature. 30

2. Similarly as to signer F. P. Goodnough and name on book Estate F. P. Goodnough.

The other two names may be classed as doubtful, but if they were counted, the valuation in all would still be less than the needed ten per cent.

So that on the merits the clerk is not shown to have acted illegally. The writ of certiorari will therefore be dismissed with costs. 40

Rule Dismissing Writ.**NEW JERSEY SUPREME COURT.**

10

KATHERINE V. SULLIVAN,
Prosecutor,

vs.

BOROUGH OF RAMSEY,
Defendant.

On Writ of
Certiorari.

20

The Court having considered the proceedings filed in the above entitled matter, and the reasons filed therein, and having heard the argument of counsel, and having fully considered the same,

It is, on this 19th day of January, 1928, ORDERED that the said Writ of Certiorari issued in the above entitled cause be dismissed, with costs of suit to be taxed.

Entered: January 19th, 1928.

On Motion of:

30

J. W. & E. A. DEYOE,
Attorneys of Defendant.

A true copy.

EDWARD J. KELLEHER,
Clerk.

40

New Jersey Court of Errors and Appeals

KATHERINE V. SULLIVAN,
Prosecutrix-Appellant,

vs.

MAYOR AND COUNCIL OF THE
BOROUGH OF RAMSEY,
Defendant-Appellee.

On appeal
from Supreme
Court.

BRIEF OF PROSECUTRIX-APPELLANT, KATHERINE V. SULLIVAN.

Statement.

This is an appeal from the judgment of the Supreme Court dismissing a Writ of Certiorari. The Writ was allowed by Justice Parker. It was granted to review the procedure in connection with the passage of Ordinance No. 142, under which the Borough of Ramsey was to issue \$24,000 bonds for the purchase of a plot of ground and a building erected thereon, to be used as a municipal building.

The bonds were to be issued under authority of the Bond Act, Chapter 252 of the Laws of 1916, as amended. Under Section 9 of the Act, the taxpayers of a borough are given the right to file a protest against the issuance of bonds. If an effective protest is filed the bonds cannot be issued unless a proposition for their issuance is adopted at an election. It is submitted that in this case an effective protest was filed.

The Facts.

The official valuation of taxable property in the Borough of Ramsey for the year 1926 was \$2,870,989. A protest signed by taxpayers representing 10% of the assessed valuation, viz., \$287,098.90, was required by the statute to be filed in order to prevent the issuance of the bonds.

On February 17, 1927, within 10 days after publication of the passed ordinance, a first protest that on its face stated that it was signed by "taxpayers, representing 10% in amount of the assessed valuation" (Rec. p. 12), and which in fact contained taxpayers' signatures representing more than 10% or \$393,775 of valuations, was filed in the office of the Clerk. Of this amount, \$27,500 representing the assessed valuations of three taxpayers, were not accepted by the Clerk because he could not find their names on the assessment roll. It is conceded by the Clerk that the net approved amount on the first petition was \$366,275. *This amount was \$79,176.10 in excess of the 10% required.*

On February 17, 1927, the Clerk affixed his signature to a certificate filed in his office as a certificate of filing and sufficiency (p. 15), which he afterwards endeavored to invalidate by erasing his signature therefrom.

The Clerk also signed a duplicate of the certificate (Exhibit P-1, p. 47) and delivered it to the Agent filing the protest, together with a signed receipt for the delivery of the original protest.

Second and third protests (pp. 16, 17) were filed February 19, 1927, and a fourth (p. 18) on February 21, 1927 (February 20th, the tenth day, being Sunday). They contained the signatures of taxpayers representing \$5,425, \$14,400 and \$28,100 valuations respectively. On the fourth protest the

Clerk did not accept \$3,650 assessed valuation of one protesting taxpayer.

Within the ten days fixed by the statute, total protests filed represented an assessed valuation of \$441,700; deducting the amounts the Clerk disallowed, the net amount was \$410,550.

Withdrawals (pp. 19, 20, 21, 22, 23) dated February 19, 20 (Sunday) and 21, 1927, were received by the Clerk. This was two days or more after the first petition was filed in the Clerk's office in a sufficient amount and after he had issued a certificate to that effect.

The Clerk, ignoring the sufficiency of the valuations on the first protest, filed on February 17, 1927, and the filing of his certificate of sufficiency, allowed withdrawals (made two and four days after the filing of the first protest in a sufficient amount), and disallowed the assessed valuations of four protesting taxpayers. He then, either erroneously or fraudulently, on February 28, 1927, issued another purported certificate declaring that "said protests are not sufficient."

BRIEF OF THE ARGUMENT.

POINT I.

The Court erred in adjudging it not improper for the Clerk to permit the withdrawal of names from said protests after same had been filed in the Clerk's office.

(a) AS TO RIGHT TO WITHDRAW.

After the first protest containing signatures of taxpayers representing 10% of the assessed valuation as required by the statute was filed in the Clerk's office, it was too late for signers to withdraw.

The Bond Act (Chapter 252, P. L. 1916 as amended), Section 9, provides:

“If within ten days after the publication of the ordinance authorizing the bonds in any borough a protest or protests against the issuance of said bonds shall be filed in the office of the clerk of such borough * * * signed * * * by taxpayers representing ten percentum in amount of the assessed valuation of such borough * * * whose names appear on the last preceding assessment roll thereof, then such bonds shall not be issued unless * * * a proposition for the issuance thereof shall be adopted at an election * * *.”

A first protest was filed in the Clerk's office on February 17, 1927, the seventh day after the publication of the ordinance authorizing the bonds. It contained the signatures of 153 taxpayers representing \$393,775 (about 13¾%) of the assessed valuation; or, taking the assessed valuation of signatures accepted by the Clerk, the protest represented \$366,275 (about 12¾%) of the assessed valuation. It is submitted, therefore, that a proper and sufficient protest, in accordance with the requirements of Section 9, was duly filed in the Clerk's office.

A parallel case, where the facts of the protests filed under Section 90 of the Borough Act of 1897 were very similar to the present case and where the statutory requirement of filing was alike in principle, is that of *Brodhead v. Flemington*, 85 N. J. L. 25. The case reads:

“Sixty days began to run on June 11, 1912, and expired on August 10, 1912; that the total assessed value of real estate was \$1,328,550, one-half of which would be \$664,285; that on July 22, 1912, remonstrances representing an assessed value of \$776,100 were filed with the Borough Clerk increased later

by \$14,120 making a total of \$790,220; and that on August 6th \$900 was withdrawn and on August 10th, the last of the 60 days a remonstrance representing an assessed value of \$130,100 was withdrawn, reducing the amount left on file to \$660,120, i.e. less than the required one-half."

Paraphrasing the *Brodhead* case, but using the facts in the present case, the latter would read:

Ten days began to run February 10, 1927, and expired on February 20, 1927 (Sunday); that the total assessed valuation of real estate was \$2,870,989, 10% of which would be \$287,098.90. That on February 17, 1927, protests representing an assessed value of (\$393,775) \$366,275 were filed in the Borough Clerk's office, increased later by \$5,425, \$14,400, and (\$28,100) \$24,450, making a total of (\$441,700) \$410,550, and that on February 19, 1927, \$100,350 was withdrawn and on February 20, \$23,500 and on February 21, the last of the 10 days (February 20 being Sunday), a protest representing an assessed value of \$10,775 was withdrawn, reducing the amount left on file to (\$307,075) \$275,625, i.e. less than the required 10%.

(It would only be by granting that the Clerk was correct in disallowing the valuations of four protesting taxpayers, amounting to \$31,200, in addition to \$134,625 withdrawals, (\$23,500 of which are stated to have been filed on Sunday), that the net amount of \$275,625 would be reached. If these four taxpayers' valuations are included in the protest, the net amount would be \$307,075, or \$19,775 in excess of the required 10%.)

In the *Brodhead v. Flemington* case the Court said:

"We think that these withdrawals made after the required one-half had been filed with

the Borough Clerk were ineffectual to destroy the force given by the statute to the filing of such a remonstrance with the Borough Clerk.

We reach this conclusion upon the language of the statute and not upon any rule of law touching the general right of withdrawal.

The statute has in the most explicit manner stated the event upon the occurrence of which the power of the common council should be at an end, viz., when remonstrances representing not less than one-half of the assessed value of real estate should be filed with the City Clerk. The fact that 60 days are given within which remonstrances may be filed does not in the least affect the foregoing positive provision, or substitute for it the very different provision that Council's authority shall depend upon the state of the Clerk's files at the end of the 60 days. Until the specific event set up by the statute has occurred, i.e., before one-half of the assessed value has been filed with the Borough Clerk, withdrawals are of course efficacious to reduce the amount on file."

The following was the Court's decision:

"Our conclusion upon the language of the statute before us is that, while it is true that remonstrances may be effectively withdrawn at any time during the 60 days provided 'the critical event set up by the statute' has not occurred, it is also true that such event when it occurs terminates the statutory scheme, and that thereupon the power of the common council is at an end in precise conformity with the specified mandate of the statute."

As in the Brodhead case, the Court said the "critical event" is "the filing of the required remonstrance with a specified official," so in the present case the requirement of the Bond Act, i.e., the filing of a protest in the Clerk's office, representing 10% of the amount of the assessed valuation, is the "critical event." The statutory re-

quirement was met and the critical event occurred on February 17, 1927. After that event occurred, the Clerk could not legally strike from the protest the names of signers who made their request two days or more after the required protest had been filed.

If the facts in the present case were as in *Wilson v. Collingswood*, 80 N. J. L. 626 (decided in 1910), which Justice Parker cited as authority for his decision, it is conceded that the Clerk would have had the right to strike from the protest the name of any signer so requesting.

In the *Wilson* case one of the questions was whether the remonstrances filed under Section 90 of the Borough Act were sufficient in view of subsequent withdrawals. The Court said:

“that if the withdrawals are effective, neither at the end of the 60 days nor at any time prior thereto were there sufficient remonstrances in force to defeat the scheme.”

In that case, at no time during the 60 days were there on file and in force remonstrances representing 50% in value of property, as required by the statute. In the present case, however (just as in *Brodhead v. Flemington* decided in 1913, three years after the *Wilson v. Collingswood* decision), the amount of assessed valuation represented on the first protest alone was in excess of the 10% required by the statute, as stated in the petition itself (p. 12, l. 10 and 11) and as testified to by the agent filing the protest (p. 41, l. 7 and 8, and p. 44, l. 40, and p. 45, l. 5 and 6) which was not denied by the defendants. Therefore, as in the *Brodhead* case, it is submitted that withdrawals made after the required amount had been filed

“were inefficacious to destroy the force given by the statute to the filing of such a remonstrance (protest) in the Clerk’s office.”

(b) AS TO TIME OF FILING.

In *Balm v. Cape May* (3 Misc. Reports 62), Justice Campbell states in reference to the date of filing that

“It is the rule that the date of filing endorsed upon a document by the official with whom it is required to be filed, is prima facie proof of its filing on such date.”

In the present case the first protest was marked by the Clerk filed February 17, 1927, which was the seventh of the 10 days after publication within which effective protests could be filed. The second and third protests were filed on February 19, 1927 and the fourth protest Monday, February 21, 1927.

POINT II.

The Court erred in permitting the withdrawal of names from said protests after the Clerk had certified the protests as sufficient in law.

With reference to the certificate of the Clerk, Section 9 of the Bond Act reads:

“The certificate of the Clerk of the Borough * * * filed in his office as to the filing or sufficiency of any protest or protests shall be conclusive for the purpose of this section.”

Under the authority of this provision it is the duty of the Clerk to issue and file in his office an appropriate certificate. When a protest is filed in his office containing the signatures of taxpayers representing 10% of assessed valuation, the statutory requirement is met and the critical event has occurred. The Clerk is then bound in duty

to file a certificate of sufficiency. Whether he files that certificate at once, as he did in this case when he wrote his name on the certificate attached to the protest filed in his office or waits until some days later to do so, is immaterial.

The first page of the first protest stated on its face that it was signed by "taxpayers representing 10% in amount of the assessed valuation" (page 12, lines 10, 11). The agent at the time of filing the protest knew that it contained more than the required 10%. He had previously checked the valuations on the assessment roll in the Clerk's office and the Clerk (who is also the Collector of Taxes and in charge of the tax books) knew that he had because it was with his consent and while he was in his office that the Agent did the checking. Therefore, when the Agent stated to the Clerk, at the time of filing the original protest, that it contained more than the required 10%, the Clerk, knowing the statement was warranted by the facts, accepted that statement in the same good faith in which it was made and delivered to the Agent a signed duplicate certificate of sufficiency and of filing in his office (Exhibit P-1, p. 47) and a signed receipt for the filing of the original protest (Exhibit P-1, p. 47). The Clerk's testimony (p. 46, l. 15) shows that he executed the original certificate of filing and sufficiency which was attached to and made part of the original first protest filed in his office.

Under Section 9 of the Bond Act the authority of the Clerk to file in his office an appropriate certificate merely empowers him to perform a ministerial act when satisfied a sufficient protest has been filed. The authority to issue such certificate does not empower him either directly or by implication—nor in view of the decision in *Brodhead v. Flemington* where a sufficient protest was filed,

has he the right—to strike from a filed protest (simply because he has delayed or failed to calculate the valuation represented thereon, and regardless of the fact that it is sufficient in amount), the names of signers who make known their wish to withdraw after (in this case two days) the filing of such protest in the required amount and the issuance of his certificate of sufficiency.

As the first protest, filed on February 17, 1927, contained the signatures of taxpayers representing more than the required 10% of assessed valuations (even excluding the valuations of three signing taxpayers that the Clerk did not identify), the Clerk's execution of the certificate of sufficiency attached to the petition filed in his office on that date was conclusive. By subsequently erasing his name from the original certificate, as the Clerk testified he did (p. 46, l. 15, 16 and 17), he could not destroy its validity; nor could he, by ignoring the fact that the amount of the valuations represented by taxpayers' signatures on the first filed protest was more than sufficient, issue and file a purported certificate of insufficiency, unless he did so erroneously or fraudulently. The purported certificate of insufficiency made by the Clerk on February 28, 1927, was a nullity. If it is intended by the statute that the "critical event" is the issuance of an appropriate certificate, then it is respectfully submitted that the original certificate of sufficiency signed by the Clerk and attached to the protest filed in his office on February 17, 1927, was conclusive, according to the mandate of the statute.

POINT III.

The Court erred in adjudging it not improper for the Clerk to remove names from the list of owners of property when the same were incorrectly set forth upon the assessment roll.

A taxpayer should not be deprived of the right of protest because of an inaccuracy in the assessment roll. There are four cases in which the Clerk, because of inaccuracies, failed to credit taxpayers signing the protest with their assessed valuations appearing on the assessment roll.

In the first case the titles to the properties assessed were held jointly by husband and wife (see Exhibit P-2, page 48, and Exhibit P-3, page 49). The husband had died several years previously. The properties were erroneously assessed in the name of the Est. James A. Davidson. As to these properties there never was an Estate. The widow, Leora D. Davidson, was the sole owner and taxpayer before, when and since the assessments were made, and the assessments on the assessment roll should have appeared in her name. She signed the first protest (see page 13, line 11). The Clerk ignored the signature.

In the second case the assessment roll bore the second given name of the taxpayer "Arthur Fox." He signed the protest using his first given name and the initial of his second given name, viz., "Henry A. Fox" (see page 13, line 22). In the third case the assessment roll bore the given name of the taxpayer "Walter Hopper" and he signed the protest using the initials of his first and second given names, viz., "W. B. Hopper"

(see page 14, line 31). In both cases because the given names as they appeared on the protest petition were not written exactly as they appeared on the assessment roll, the Clerk, despite the same surnames and the apparent similarity of the given names ignored the signatures.

In the fourth case the title to the property had been in the name of Edward H. Goodnough. He died in 1924 leaving a will (see Exhibit P-4, page 49), devising his property to his wife. She signed the protest "Francisca P. Goodnough" (see page 18, line 25). The 1926 assessment roll contained the correct name of the taxpayer "F. P. Goodnough," but had incorrectly added thereto the word "Est." The Clerk ignored her signature.

In each of the above cases there are no two taxpayers in the Borough of Ramsey bearing identical names. Three of the persons who signed the protest and whose valuations were excluded were actually the taxpayers and the persons intended to be assessed. In the fourth case, the properties of the taxpayer, Leora D. Davidson, were erroneously assessed.

The Agent who filed the protests had no difficulty when he examined the assessment roll in finding the assessed valuations of these four taxpayers. Surely, therefore, the Clerk, who also holds the office of Collector in Ramsey and is expected to be thoroughly familiar with the assessment roll—and is personally acquainted with these taxpayers—should have had no difficulty in locating their assessments. The Clerk's improper determination to ignore the signatures, whether through carelessness or wilfulness, would deprive these taxpayers of their legal right of protest, and should not be permitted.

The clause of Section 9 reading:

“whose name appears on the last preceding assessment roll thereof,”

does not intend that the taxpayer, in order to make an effective protest must write his name in the identical form that it appears on the assessment roll. The clause intends to give to the person who is the taxpayer and whose name appears on the assessment roll the right to protest. In all of these cases the surnames of the taxpayers do appear on the assessment roll. It is only in the given names and in the improper use of the word “Estate” that there are mistakes. These mistakes should not be charged to the taxpayers. Therefore, as the properties assessed were those of the taxpayers signing the protests and their surnames do appear on the assessment roll, it is submitted that their signatures for the valuations represented on the assessment roll should be included on the protests.

Conclusion.

It is respectfully submitted:

First: That a first and effective protest against the issuance of \$24,000 bonds was filed February 17, 1927, containing the signatures of taxpayers representing more than 10% of the assessed valuation, or \$393,775 (or \$366,275 if the valuations of three signing taxpayers are excluded), which is far in excess of the \$287,098.90 required.

Second: That the Clerk filed in his office a certificate of filing and sufficiency on February 17, 1927.

Third: That withdrawals of February 19, 1927 (two days after the filing of the protest in a sufficient amount and the issuance of a certificate of sufficiency) and subsequent withdrawals, amounting in all to \$134,625 were made too late to be efficacious.

Fourth: That four protests were filed amounting to \$441,700. Even were it granted that the signers had a right to withdraw, subsequent to the time of filing a protest in a sufficient amount (and the issuance of a certificate of sufficiency), nevertheless, the net amount on the four protests would be \$307,075 or \$19,966 in excess of the 10% required.

Fifth: That the Clerk should not have excluded the valuations of four taxpayers as follows:

Leora D. Davidson.....	\$20,350
Henry A. Fox.....	2,950
W. B. Hopper.....	4,200
F. P. Goodnough.....	3,650

Amounting to\$31,150

(It would only be by deciding that these taxpayers, because of inaccuracies in the assessment roll, should be deprived of their legal right to protest that the valuations remaining are reduced to \$275,075 or less than the \$287,098.90 required.)

Sixth: That after the issuance and filing of a certificate of sufficiency on February 17th, the Clerk's purported certificate on February 28th that the protests filed were insufficient, is contrary to fact and a nullity.

Under all the circumstances, it is respectfully submitted that an effective protest in a sufficient amount was filed on Feb. 17, 1927, and that an appropriate certificate of sufficiency, that is conclusive, was filed by the Clerk in his office on the same date.

Therefore the Council is without authority to issue the \$24,000 bonds provided for under the ordinance.

Respectfully submitted,

WRIGHT, VANDERBURGH & McCARTHY,
Attorneys of Prosecutrix-Appellant.

JOHN J. SULLIVAN,
Of Counsel.

The first of these is the fact that the
amount of the deposit is not a small
one. It is \$100,000, and the
interest on it is \$10,000 per
annum. This is a very large sum
of money.

The second fact is that the
deposit is made in the name of
the Corporation. This is a very
important fact, because it means
that the Corporation is liable for
the interest on the deposit.

The third fact is that the
deposit is made in the name of
the Corporation. This is a very
important fact, because it means
that the Corporation is liable for
the interest on the deposit.

The fourth fact is that the
deposit is made in the name of
the Corporation. This is a very
important fact, because it means
that the Corporation is liable for
the interest on the deposit.

The fifth fact is that the
deposit is made in the name of
the Corporation. This is a very
important fact, because it means
that the Corporation is liable for
the interest on the deposit.

The sixth fact is that the
deposit is made in the name of
the Corporation. This is a very
important fact, because it means
that the Corporation is liable for
the interest on the deposit.

The seventh fact is that the
deposit is made in the name of
the Corporation. This is a very
important fact, because it means
that the Corporation is liable for
the interest on the deposit.

The eighth fact is that the
deposit is made in the name of
the Corporation. This is a very
important fact, because it means
that the Corporation is liable for
the interest on the deposit.

N. J. Court of Errors & Appeals

Katherine V. Sullivan, Prosecutrix-Appellant, vs. Mayor and Council of the Borough of Ramsey, Defendant-Appellee.	}	On Appeal from Supreme Court
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BRIEF OF DEFENDANT-APPELLEE

STATEMENT OF FACTS

On February 10, 1927, the Borough Council of the Borough of Ramsey caused to be published an ordinance providing for the issuance of bonds for the purpose of purchasing premises to be used as a municipal building. (Case, p. 6 to 11 inc.)

On February 17, 1927, February 19, 1927, and February 21, 1927, protest petitions were filed with the Borough Clerk. (Case, p. 14 to 18 inc.)

On February 17, 1927, the clerk did not affix his signature to a certificate as to filing and sufficiency in his office as recited in the facts set forth in brief of the appellant. (Case, p. 15.) The paper so referred to was an acknowledgement of the receipt of a protest petition and not a certificate. (Case, p. 45.)

Taxpayers representing the following valuations filed with the Borough Clerk withdrawals of signatures from protest petitions on following dates:

February 19, 1927	\$110,350.
February 20, 1927	23,500.
February 21, 1927	10,775.

Within the ten days fixed by statute, total protests as filed did not represent as assessed valuation of 441,700 as set forth in statement of facts in the brief of the appellant.

On February 23, 1927, the Borough Clerk reported to the Borough Council the receipt of the protest petitions and the withdrawal of the signatures therefrom and stating that he was checking valuations to enable him to report on the sufficiency of same. (Case, p. 24.)

On February 28, 1927, the Borough Clerk filed in his office a certificate in which he determined that the protest petitions were neither signed by one-third of the governing body in office voting on such ordinances nor by taxpayers representing ten per centum in amount of the assessed valuation of said Borough, whose names appear on the last preceding assessment roll thereof and said protests were not sufficient. (Case, p. 25.)

BRIEF OF THE ARGUMENT

POINT I.

THE APPELLATE JURISDICTION OF THIS COURT IS NOT INVOKED IN THIS CASE BECAUSE THE GROUNDS OF APPEAL ASSIGN ERRORS IN THE OPINION OF THE SUPREME COURT AND NOT IN THE JUDGMENT SOUGHT TO BE REVIEWED.

In certiorari cases, the only proper ground of appeal is that the Supreme Court erred in the judgment it gave. The reasons filed in the Supreme

Court by the appellant constitute the only questions that can be raised in this court.

See ground of appeal (Case, p. 2) and reasons. (Case. p. 28.)

Allen vs. City of Paterson, 99 N. J. L., 489.

Burhans vs. City of Paterson, 99 N. J. L., 490.

POINT II.

THE CLERK PROPERLY RECOGNIZED THE WITHDRAWAL OF SIGNATURES FROM PROTEST PETITIONS QUESTIONED IN POINT I OF APPELLANT'S BRIEF.

The Bond Act (Chapter 252 P. L. 1916 as amended) Section 9 states:

“If within ten days after the publication of the ordinance authorizing the bonds in any borough or township a protest or protests against the issuance of said bonds shall be filed in the office of the clerk of such borough or township, signed either by one third of the governing body in office adopting such ordinance or by taxpayers representing ten per centum in amount of the assessed valuation of such borough or township whose names appear on the last preceding assessment roll thereof, then such bonds shall not be issued unless within sixty days after the publication of such ordinance a proposition for the issuance thereof shall be adopted at an election to be held for that purpose by a majority of the qualified voters of such municipalities voting on

such proposition. The certificate of the clerk of the borough or the township filed in his office as to the filing or sufficiency of any protest or protests shall be conclusive for the purposes of this section."

This section of the bond act permits the filing of protest within ten days after the publication of the ordinance authorizing the issuance of bonds. Protest petitions and petitions withdrawing signatures from protest petitions signed by taxpayers were filed with the Borough Clerk within said ten day period. At the end of said ten day period the Borough Clerk checked the signatures of the signers of the protest petitions and of the withdrawals therefrom with the last preceding assessment roll of the Borough and determined that the protest petitions were not signed by taxpayers representing ten per cent of the amount of assessed valuation of the Borough whose names appeared on the last preceding assessment roll thereof, and that said protests were insufficient. The Borough Clerk thereupon on February 28, 1927, issued his certificate to that effect and filed same in his office. (Case, p. 25.)

The statute placed the duty on the Borough Clerk to determine the sufficiency of the protest petitions and makes his determination conclusive.

It was necessary for the Borough Clerk to act before a result could be determined. The statute makes his determination final for the purposes of Section 9 of the Bond Act. He made his determination in this case on February 28, 1927, and considered all the protests and the withdrawals filed within the ten-day period, which, in the exercise of his authority, conferred by this statute, he had the right to do.

The ten-day period fixed by statute started to run February 10, 1927, and ended February 20, 1927, and during this period, protest petitions totaling \$386,100. and withdrawals therefrom totaling \$123,850. were filed, leaving signatures totaling \$262,250, being an amount less than the required ten per cent. of \$2,870,989.00 the 1926 assessed valuation of Borough of Ramsey.

The right of taxpayers to withdraw their signatures from remonstrances or protest petitions depends in each case upon the wording of the statute involved.

Broadhead vs. Flemington, 85 N. J. L. 25, is not a parallel case to the case at issue. In that case the statute did not place any discretion in the municipal clerk.

In Balm vs. Cape May, 127 A 923, 577 and 88 (1925) the Court referred to the statute therein involved, as follows:

“Now the statute in question, by section 402 of article 4, provides;

“Upon such petition or request in writing being filed with the municipal clerk, the said clerk shall forthwith call an election***”

“Now, in the instant case, as I already stated, the statute makes no provision for an examination of the petition by the municipal clerk.”

The statute in the case cited directed the clerk to call an election immediately upon the filing of the requisite petition. The statute was mandatory

and left no discretion with the municipal clerk. In this respect it differed from section 9 of the Bond Act.

In *Wilson vs. Collingswood*, 80 N. J. L. 625, it is stated that it was permissible to withdraw signatures from protests during the period fixed in the statute for filing same.

“The situation existing at the end of the sixty days was controlling and the inquiry should be whether at that time there were on file and in force sufficient remonstrances to oust jurisdiction; if not, the council might proceed. Up to that crucial point remonstrances might be made or withdrawn;”

POINT III.

COPY OF “EXHIBIT P-1 (Case, p. 47)” ATTACHED TO ORIGINAL PROTEST DID NOT CONSTITUTE A CERTIFICATE OF SUFFICIENCY AS ALLEGED IN POINT II OF APPELLANT’S BRIEF.

On February 17, 1927, John J. Sullivan presented to the Borough Clerk protest petition of that date, to which was attached a proposed form of certificate. (Ex. P-1, Case, p. 47.) He presented two copies of this protest petition, one an original copy and the other a carbon copy.

At the request of Mr. Sullivan, the Clerk signed Exhibit P-1 (Case, p. 47) as an acknowledgment of the receipt of the carbon copy of the petition. He signed both the original and the carbon copy.

Immediately after Mr. Sullivan left the Clerk's office he, the Clerk, read the paper and found that it was in the form of a certificate, and at once erased his name from same and did not file copy of "Exhibit P-1" as a certificate in his office. (Case, p. 46, line 29.)

Mr. Sullivan states that he did not explain the certificate to the Borough Clerk and that he did not check, with the Borough Clerk, any of the figures or names on the assessment books or the properties. (Case, p. 44 and 45.)

The testimony shows clearly that this paper was not intended by the Borough Clerk to be a certificate of sufficiency of protest but that it was signed as a receipt. (Case, p. 45 and 46.)

POINT IV.

THE CLERK PROPERLY REFUSED TO RECOGNIZE SIGNATURES TO PROTEST PETITIONS NOT APPEARING ON THE OFFICIAL ASSESSMENT ROLL, AS QUESTIONED IN "POINT III" OF APPELLANT'S BRIEF.

Section 9 of Bond Act (Chapter 252, P. L. 1916 as amended) provides, that the protest petitions be signed by taxpayers "whose names appear on the last preceding assessment roll" of the Borough.

On the first protest there appear the following names:

"Leora D. Davidson"

"Henry A. Fox"

"W. B. Hopper"

On the fourth or last protest there appears the name:

“Francesca P. Goodnough”.

On the assessment roll there appear the following names and assessments:

Davidson, Jas. A. Est.	assessment	\$20,400.
Fox, Arthur	assessment	2,950.
Hopper, Walter	assessment	4,200.
Goodnough, F. P. Est.	assessment	3,650.

(Case, p. 42-43 and 44.)

The Borough Clerk is by the statute directed to abide by his assessment roll. It was not proper for him to use any other guide to determine the identity of the protesting taxpayers.

It is the duty of every taxpayer to investigate the assessment of his property by the Borough officials. If there is any error in the assessment, the municipality and its officials are not at fault but the property owner is held responsible. The obligation in each of the cases mentioned was placed upon the property owner.

Exhibits P-2, P-3, and P-4 appear of record in the Bergen County Clerk's Office and Bergen County Surrogate's Office and not in the office of the Clerk of the Borough of Ramsey. Objection to admission of same in evidence made at hearing.

The Borough Clerk is not required to make searches of the lands of the taxpayers to determine the names of the owners. The statute directs that he shall abide by the assessment roll.

The testimony (Case, p. 41, 42, 43 and 44) does not support the following statement of facts set forth under Point III of the appellant's brief:

The agent who filed the protest had no difficulty when he examined the assessment roll in finding the assessed valuations of these four taxpayers”.

“The husband had died several years previously. The properties were erroneously assessed in the name of Jas. A. Davidson. As to these properties, there never was an estate.”

And other general statements.

The Borough Clerk acted properly in refusing to recognize the above signatures.

CONCLUSION

It is insisted:

First: The protest filed February 17, 1927, did not contain, when examined by the Borough Clerk at the time of the making of his determination of sufficiency ten per cent. of the assessed valuation of the Borough of Ramsey.

Second: The Clerk did not file in his office a certificate of filing and sufficiency of protest petition on February 17, 1927.

Third: All withdrawals filed within the ten-day period fixed by statute, were properly considered by Borough Clerk.

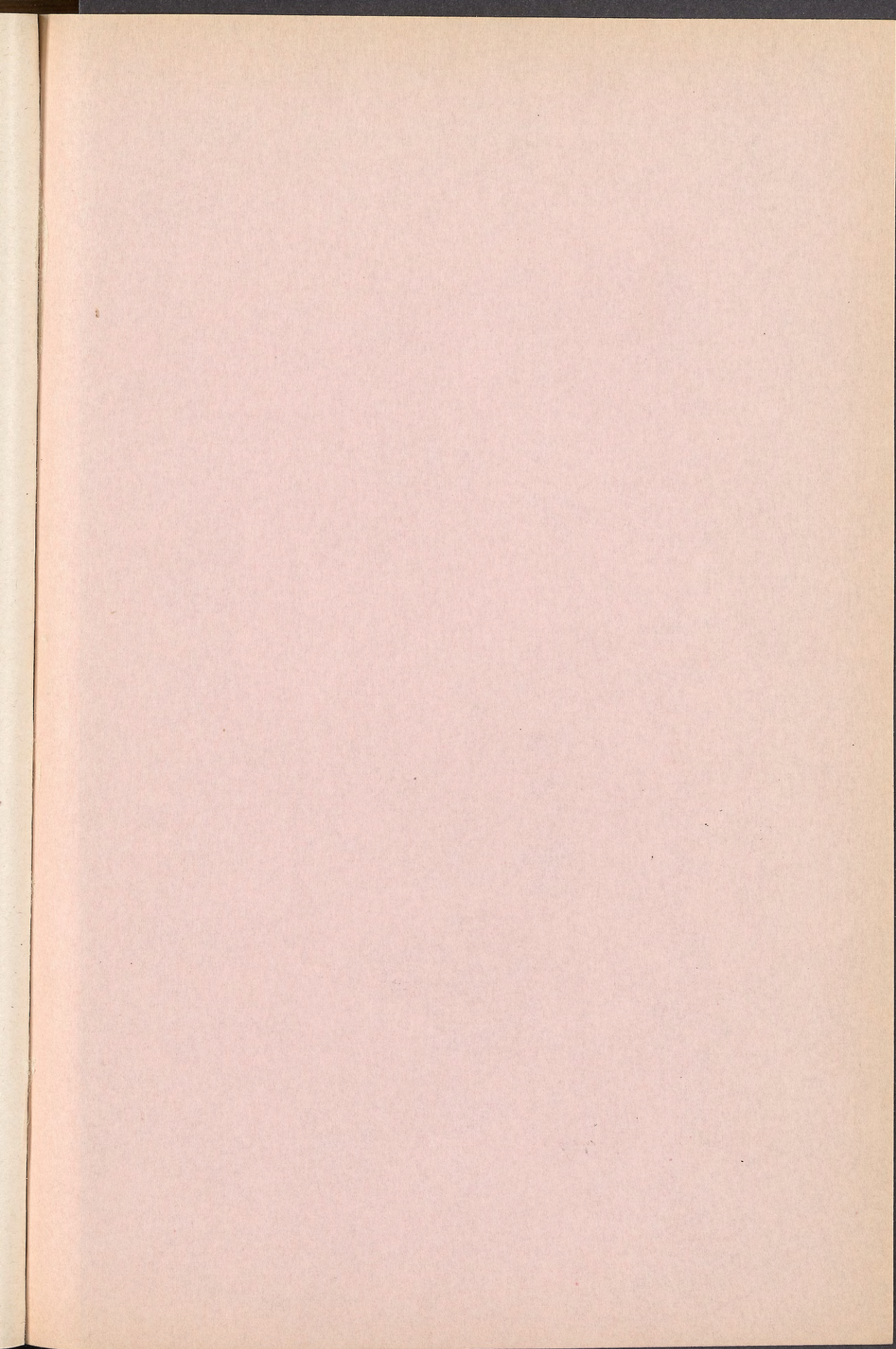
Fourth: The four protest petitions filed, did not amount to \$441,700. as alleged by appellant but totaled less than ten per cent. of the assessed valuation of the Borough.

Fifth: The Borough Clerk properly excluded the signature Leora D. Davidson, Henry A. Fox, W. B. Hopper and Francesca P. Goodnough, in computing his valuation.

Sixth: The Borough Clerk issued and filed on February 28, 1927, a certificate of insufficiency of protest petitions and did not, on February 17, 1927, sign and file a certificate of sufficiency of same.

Accordingly it is respectfully submitted that the appeal be dismissed.

J. W. and E. A. DE YOE,
Attorneys and Counsel of
Defendant-Appellee



1911. The Borough Clerk proposed estimates for the year 1911. The estimates were prepared by the accountants, Lewis D. Davidson, Henry A. Fox, W. E. Hopper and Frederick F. Anderson, in connection with the valuation.

1912. The Borough Clerk proposed estimates for the year 1912. The estimates were prepared by the accountants, Lewis D. Davidson, Henry A. Fox, W. E. Hopper and Frederick F. Anderson, in connection with the valuation.

1913. The Borough Clerk proposed estimates for the year 1913. The estimates were prepared by the accountants, Lewis D. Davidson, Henry A. Fox, W. E. Hopper and Frederick F. Anderson, in connection with the valuation.

W. E. Hopper and Frederick F. Anderson

Accountants